THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No : 6229 of 2005

Dated 5th September, 2005.

Between:

V.Kali Rathienam, ASI/MM/Fire,

CISF No.911530096, S/o.K.Vaiaramuthu aged about 31 years, Dr.No.84/B, Sector-I, Ukkunagaram, Visakhapatnam-31,

And

Director of General, CISF Headquarters, Block No.12, CGO's Complex, Lodhi Road, New Delhi-3 and others.

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ORDER:

The writ petition is filed seeking to issue a Writ, Order or direction more particularly one in the nature of writ of Mandamus, directing the respondents herein to give promotion to the petitioner herein as Sub-Inspector/Fire with retrospective effect from 7-11-1996 with all the consequential benefits.

The case of the petitioner is that he was appointed in Central

Industrial Security Force (for brevity “C.I.S.F”) as A.S.I/Motor Mechanic/Fire in CISF Fire Wing by direct recruitment on 8-11-1991. He submits that he possessed additional qualifications in addition to the Fire Fighting Training Course for which he underwent through successfully during the training period from 30-3-1999 to 22-11-1997. He further submits that he also passed Diploma in Mechanical Engineering.

On completion of the 1st SI/ASI (Fire) Basic Fire Frightening Course, the petitioner was given the Movement Order by proceedings dated 23-11-1992 by the Commandant/Principal, CISF, FSTI Deoli, Touk District, Rajasthan and he was directed to be posted at FGUITPP, Unchahar. The petitioner also submits that he attended the III PCC (Promotion Cadre Course) for ASI (Fire) to SI (Fire) at the FSTI, Deoli (Rajasthan) with effect from 28-12-1993 to 26-2-1994 and he was declared as a qualified and his serial number was placed at 5 in the successful trainees list, dated 25-4-1994.

The learned counsel for the petitioner contended that some of the juniors have been given promotion in the year 1997, who are recruited in the same batch of the petitioner.

Heard the learned counsel for the petitioner and the learned Standing Counsel for Central Government appearing for the respondents.

The learned Standing Counsel for the Central Government appearing for the respondents contended that the persons who were given promotion are belonging to the ASI (Fire/Lab), therefore, the petitioner belongs to the different category and after 1996, no post in the cadre of SI (Fire/Mech) is vacant. Therefore, the question of appointment of the petitioner does not arise. The appointment of the petitioner is a direct recruitment of ASI (Fire/Mech.,) which is not in dispute. Some of the juniors belong to the same batch; of the petitioner were given promotion in the years 1991, 1992 and 1996 respectively. Even according to the petitioner, the juniors who were given promotions are only promoted as SI Fire.

The respondents specifically stated in the counter affidavit that there are two categories of persons who are eligible for promotion as SI of Police, one is from ASI (Fire/Lab) and another is ASI (Fire/Mech). As and when vacancies arise in the post of SI (Fire/Lab), the person from the category of ASI (Fire/Lab) will be promoted. In the same way, whenever vacancies arise in the category of SI (Fire/Mech), the same shall be filled from the category of the ASI (Fire/Mech). Therefore, the Directorate General Central Industrial Security Force (Ministry of Home Affairs) vide proceedings No.E-31016/146/99/Estt.1/1301, dated 12-10-1999, has clearly stated that all the persons whose names have been mentioned in the representation of Sh.Rathinam, were promoted from the rank of ASI (Fire/Lab). Since Sh.Rathinam has been holding the rank of ASI (Fire/Mech), he has been maintaining his seniority amongst the ASI (Fire/Mech) and not amongst ASI (Fire/Lab). His next promotion will be in the rank of SI (Mechanical/Fire) and not as SI (Fire/Lab). His case for promotion as SI (Mech/Fire) will be considered separately, as and when vacancies in this rank against promotion quota become available. It is also made it clear that since sanction of posts in the rank of SI (Mech/Fire) are very limited, he sent a proposal to the Ministry of Home Affairs with regard to the Rules so as to enhance the promotional avenues in the category of SI (Mech/Fire). Since no action has been taken, but, that does not conferred any right to the petitioner, in view of the fact that no post in the category of SI (Mech/Fire) is available after 1996. Therefore, the question of appointing the petitioner as SI (Mech/Fire) with effect from 1996 does not arise.

The writ petition is devoid of merits and accordingly is dismissed. No costs.

5th September, 2005.

mrb